

IN THE UNITED STATES DISTRICT COURT FOR THE  
DISTRICT OF SOUTH CAROLINA  
AIKEN DIVISION

UNITED STATES OF AMERICA,	)	CIVIL ACTION NO.
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
EDWARD F. SCANLON,	)	
DEBRA J. SCANLON, and	)	
FIRST CITIZENS BANK AND	)	
TRUST COMPANY, INC.,	)	
	)	
Defendants.	)	

COMPLAINT

The United States of America, by and through undersigned counsel, complains and alleges as follows:

1. The United States brings this action to reduce to judgment unpaid federal income taxes owed by Edward F. and Debra J. Scanlon and (collectively “the Scanlons”) to foreclose federal tax liens that attach to real property located at 376 Burkelo Road, Wagener, South Carolina.

2. This action is authorized and requested by the Chief Counsel of the Internal Revenue Service (“IRS”), a delegate of the Secretary of the Treasury of the United States, and is commenced at the direction of the Attorney General of the United States, pursuant to 26 U.S.C. §§ 7401 and 7403.

JURISDICTION AND VENUE

3. This Court has jurisdiction over this civil action pursuant to 26 U.S.C. §§ 7402(a), 7403 and 28 U.S.C. §§ 1340, 1345.

4. Venue is proper in this district and division pursuant to 28 U.S.C. §§ 1391(b) and 1396 because the tax liabilities accrued in this district, the defendants reside in this district, and the property on which the United States seeks to foreclose its lien is in Aiken County, South Carolina.

#### SUBJECT PROPERTY

5. The property on which the United States seeks to foreclose its lien (“Subject Property”) is situated at 376 Burkelo Road, Wagener, South Carolina. The legal description of the Subject Property is:

All that certain piece, parcel or tract of land, with improvements thereon, situate, lying and being located West of Highway 575 in the Kitchings Mill Area in the County of Aiken, State of South Carolina, containing 150.0 acres, more or less, as shown on plat prepared by Benjamin B. Christensen, PLS dated February 17, 2004, recorded in Plat Book 47, at Page 272-2, RMC for Aiken County. Reference is made to said plat for more complete description as to metes, bounds and location of property.

This being the property conveyed to Edward F. and Debra J. Scanlon by deed of American Escrow Company, a Texas corporation, dated June 30, 2004, and recorded on July 13, 2004, in Deed Book 2399, Page 257, in the RMC for Aiken County.

Tax Map No.: 221-00-05-022 (new)

#### PARTIES

6. Defendant Edward F. Scanlon resides in Aiken County, South Carolina, within the jurisdiction of this Court, and is named as a party to this action because his unpaid federal tax liabilities are the subject of this action and are the basis for liens upon the Subject Property.

7. Defendant Debra J. Scanlon, resides in Aiken County, South Carolina, within the jurisdiction of this Court, and is named as a party to this action because her unpaid federal tax liabilities are the subject of this action and are the basis for liens upon the Subject Property.

8. Defendant First Citizens Bank and Trust Company, Inc., is a domestic corporation registered to do business in the State of South Carolina and is named as a party to this action pursuant to 26 U.S.C. § 7403(b) by virtue of a mortgage it holds on the Subject Property. On or about March 27, 2006, the Scanlons gave a mortgage on the Subject Property to First Citizens Bank and Trust Company, Inc. That mortgage was recorded in the public records of Aiken County, South Carolina at Mortgage Volume 4055, Pages 723-727.

### COUNT I

#### **Reduce to Judgment the Federal Income Tax Liabilities of Edward J. Scanlon for 1999 and 2000**

9. Edward J. Scanlon failed to file an income tax return for the tax years 1999 and 2000. The IRS investigated Scanlon's income tax liabilities, and, because he had not filed tax returns for those years, calculated the amount of income tax Scanlon owed for the 1999 and 2000 tax years based upon the information it was able to gather.

10. On April 10, 2006, a delegate of the Secretary of the Treasury made assessments against Scanlon for income tax, penalties, and interest for the years 1999 and 2000, in the amounts specified in the table that follows:

<b>Tax Year</b>	<b>Tax</b>	<b>Interest</b>	<b>Penalties</b>	
1999	\$264,565.40	\$130,533.14	\$54,439.74	*
			\$11,588.05	**
			\$60,488.60	***
2000	\$171,387.70	\$ 66,982.32	\$38,561.33	*
			\$ 9,154.42	**
			\$42,845.93	***

- \* late filing penalty - IRC § 6651(a)
- \*\* estimated tax penalty - IRC § 6654(a)
- \*\*\* failure to pay penalty - IRC § 6651(a)(2)

11. Despite notices of the assessments and demands for payment, Scanlon has failed to fully pay the assessments described in paragraph 10 above. As of August 7, 2012, Scanlon owes \$1,153,148.95 on those assessments, plus penalties and interest that continue to accrue as provided by law.

## COUNT II

### **Reduce to Judgment the Joint Federal Income Tax Liabilities of Edward and Debra Scanlon**

12. On February 15, 2007, the Scanlons filed untimely joint federal income tax returns for the years 2002 and 2003. On October 21, 2005, the IRS received the Scanlon's 2004 joint federal income tax return. The Scanlons failed to fully pay the liabilities they reported on all of those returns.

13. On the dates and in the amounts indicated in the table below, a delegate of the Secretary of the Treasury assessed against the Scanlons the income tax they reported on their returns for 2002 through 2004, plus applicable interest and penalties, as follows:

<b>Tax Year</b>	<b>Assessment Date</b>	<b>Tax</b>	<b>Interest</b>	<b>Penalties</b>
2002	04/23/2007	\$ 63,347	\$20,405.41	\$14,253.07 *
				\$15,520.01 ***
	07/27/2009			\$ 316.74 ***
2003	04/30/2007	\$114,616	\$29,477.17	\$25,788.15 *
				\$ 2,957 **
				\$21,203.59 ***

	07/27/2009			\$ 7,449.91 ***
2004	11/21/2005	\$84,380	\$3,231.84	\$ 2,418.09 **
				\$ 3,375.20 ***
	10/29/2007			\$15,556.31 ***
	07/27/2009			\$ 2,098.25 ***

- \* late filing penalty - IRC § 6651(a)
- \*\* estimated tax penalty - IRC § 6654(a)
- \*\*\* failure to pay penalty - IRC § 6651(a)(2)

14. Despite notices of the assessments and demands for payment, the Scanlons have failed to fully pay the assessments described in paragraph 13 above. As of August 7, 2012, the Scanlons owe \$556,505.95 on those assessments, plus penalties and interest that continue to accrue as provided by law.

### COUNT III

#### Foreclosure of Federal Tax Liens

15. The United States incorporates by reference the allegations set forth in paragraphs 1 through 14 above.

16. The Scanlons acquired title to the Subject Property by warranty deed dated June 30, 2004. This warranty deed was recorded on July 13, 2004 in the public records of Aiken County, South Carolina at Deed Book 2433, Pages 257-259.

17. As a result of the Scanlons' failure, after notice and demand for payment, to satisfy the assessments described in paragraphs 10 and 13, pursuant to 26 U.S.C. § 6321, federal tax liens

arose on the dates of assessment and attached to all property and all rights to property of the Scanlons, including the Subject Property.

18. On March 25, 2008, a delegate of the Secretary of the Treasury filed a notice of federal tax lien in the public records of Aiken County, South Carolina against Edward F. Scanlon for the assessments described above in paragraph 10. On that same date, a delegate of the Secretary of the Treasury filed a notice of federal tax lien in the public records of Aiken County, South Carolina against the Scanlons for the assessments described above in paragraph 13.

WHEREFORE, Plaintiff, United States of America, respectfully prays for the following:

A. That judgment be entered against Defendant Edward F. Scanlon for his unpaid federal income tax liabilities from the years 1999 and 2000 in the amount of \$1,153,148.95 as of August 7, 2012, plus any further interest and statutory additions on the assessments as allowed by law, to the date of payment;

B. That judgment be entered against Defendants Edward F. Scanlon and Debra J. Scanlon jointly for their unpaid federal income tax liabilities from the years 2002 through 2004 in the amount of \$556,505.95 as of August 7, 2012, plus any further interest and statutory additions on the assessments as allowed by law, to the date of payment;

C. That this Court adjudge, order, and decree that the federal tax liens of the United States attach to all property and rights to property of Defendants Edward F. Scanlon and Debra J. Scanlon, including their interests in the Subject Property, and that those liens continue to attach;

D. That this Court adjudge, order, and decree that the federal tax liens upon the Subject Property be foreclosed upon, that the property be sold according to law, free and clear of the claims of the parties herein, and that the proceeds of sale be distributed in accordance with the determination of this Court with respect to the priorities of the claims of the parties herein;

E. That the proceeds of the sale of the Subject Property payable to the United States be applied in satisfaction of Defendants Edward F. Scanlon's and Debra J. Scanlon's unpaid federal tax liabilities, as set forth in this Complaint; and

F. That this Court grant the United States such other relief, including costs, as is just and equitable.

Respectfully submitted,

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-and-

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